

## Australian Lesbian Medical Association Position Statement on Refugees and Asylum Seekers

The Australian Lesbian Medical Association represents over 200 lesbian/bisexual doctors and medical students nationwide. As same-sex attracted doctors we believe that everyone has the right to 'best attainable health' regardless of gender and sexual orientation. Therefore we seek to actively advocate on health issues that impact LGBTIQ populations. We have ongoing concern about LGBTIQ people facing discrimination worldwide and actively seek to support those whom seek refuge in Australia as a result of being persecuted on the basis of their gender identity or sexual orientation. We also support research into the needs of LGBTIQ refugees and asylum seekers in Australia, in particular their access to inclusive health services.

### BACKGROUND

According to UNHCR, by the end of 2013, 51.2 million were forcibly displaced as a result of persecution, conflict, generalised violence or human rights violations. Of these, 16.7 million are refugees and 1.2 million are asylum seekers. Developing countries hosted 86% of the world's refugees; Pakistan hosted the largest number of refugees at 1.6million, followed by the Islamic Republic of Iran, Lebanon, Jordan and Turkey. At that time Australia had 34 503 resettled refugees (0.21% of global) and 13 559 asylum seekers (1.12% of global) with pending cases (1).

In Australian law, 'homosexuality' is protected under *membership of a particular social group*(2). Consensual same-sex activity is criminalized in 78 countries (3).

### Persecution faced by LGBT people worldwide

Threat to LGBTIQ communities

- Being gay in criminalised countries
- Impact on those who speak out
- Stigma on HIV, severe brutality/ lack of access to healthcare for LGBT populations worldwide
- Impact on mental health of living in fear and hiding

### Definitions (reference using RANZCP POSITION STATEMENT)

An **asylum seeker** is a person who has fled their own country and applies to the government of another country for protection as refugees.

A **refugee** is a person outside their own country and is unable or unwilling to return due to a well-founded fear of being persecuted because of their race, religion, nationality, membership of a particular social group or political opinion.

An **internally displaced person** is a person who has been forced to flee or leave their home or place of habitual residence because of generalized violence, human rights violations or human-made or natural disasters.

*Once the country they have applied for asylum accepts their refugee claims, a person moves from asylum seeker status to refugee status. The terms refugee and asylum seeker are used interchangeably because 'most refugees are at some point asylum seekers'.*

**Same-sex attracted (SSA) and sex and gender non-conforming (SGN).** *People from CALD communities may not identify with the identity terms lesbian, gay, transgender, bisexual, intersex or queer, while having same-sex attractions, same-sex relationships and/or being sex or gender non-conforming. These people are also likely to suffer discrimination and persecution in their countries of origin.*

## **EVIDENCE**

### **1. LGBTIQ refugee status claims difficult to prove**

The key points here are that LGBTIQ people often lived in their countries of origin in a way that required concealment of their LGBTIQ status to avoid persecution. This means that it can be very difficult to prove this status to authorities.

**Recommendation** – that LGBTIQ status is clarified as a legitimate claim for refugee status when the person is from a country that criminalises LGBTIQ status

### **2. Risk of victimisation in detention**

If LGBTIQ status is discovered in detention, the person faces the risk of victimisation from other detainees or by guards.

**Recommendation** – adequate training of detention centre staff about LGBTIQ status, and safeguards to minimise exposure to victimisation through appropriate segregation

### **3. Risk of further persecution if resettled off shore**

Australia is one of 142 nations that are signatory to the UN 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to Refugees. Under the 2013-14 Humanitarian Program, the Department of Immigration and Citizenship (DIAC) has 13 750 places; 11 000 minimum offshore and the remainder permanent protection visas granted onshore, for those arriving 'legally' i.e. with a valid visa (4).

On 19<sup>th</sup> July 2013, the Australian Government passed the Regional Resettlement Arrangement with Papua New Guinea; all asylum seekers arriving by boat after July 19 would be transferred to and processed under PNG laws, if found to be refugees, **resettled in PNG** with no opportunity of resettlement in Australia. A similar arrangement was made with Nauru on 3<sup>rd</sup> August 2013 (5).

Refugee claims are in interim on Manus Island, as the PNG government is yet to come up with a resettlement policy (6). 179 asylum seekers have been resettled on Nauru; 50 interviewed some reporting "lack of clean water, food or work"(7).

Immigration detention is a risk-management tool, to allow for health, identity and security checks to mitigate potential risks to the community (8). However people continue to be detained indefinitely,

unless they receive a permanent protection visa. Furthermore majority of asylum seekers are found to be genuine refugees.

PNG anti-gay laws – 14 years in jail for homosexuality – PNG government assessing refugee claims – refugees changing claims to religious/political asylum for fear of being jailed - <http://www.smh.com.au/federal-politics/political-news/asylum-seekers-claims-changed-for-fear-of-pngs-antigaylaws-senate-hearing-told-20140225-33fsf.html>

#### **4. Inadequate health services for LGBTIQ refugees in Australia**

The refugee services in Australia are under-prepared to understand the specific issues facing LGBTI refugees, and their specific health needs.

SGN youth from refugee backgrounds at “increased risk of poor sexual and reproductive health outcomes” stemming from isolation and disconnection from services and communities (9). Furthermore, clients “fear that being gay or lesbian would have a negative impact on their visa status” highlighting the need to provide basic information on the legal status of gender identity and sexuality in Australia.

We support the recommendations by Noto et al. (2014) calling for the development of migrant programs and services that are inclusive of SGN people.

Key points about health services in Australia – from Noto:

- That LGBTIQ refugees fear disclosure as they don't know whether health providers will be accepting or not
- LGBTIQ refugees fear disclosure when using interpreters as the interpreter may have negative attitudes, and issues of confidentiality are not always guaranteed
- Health services state that they have not been trained in this area and have little or no specific knowledge about LGBTIQ people

**Recommendation:** training for Australian refugee services ins LGBTI issues would be helpful.

#### **POLICY RECOMMENDATIONS**

**ALMA recommends that the Australian Commonwealth Government:**

- Clarifies that LGBTIQ status as a legitimate claim for refugee status when the person is from a country that criminalises LGBTIQ status
- Provides adequate training of detention centre staff about LGBTIQ status
- Safeguards to minimise exposure to victimisation when in detention through appropriate segregation
- Protects the rights of LGBTIQ asylum seekers and refugees i.e. not being sent to places where homosexuality is criminalised

- Resettles LGBTI asylum seekers in Australia, instead of PNG, Cambodia and Nauru where conditions are unsafe, and highlighting the risk for LGBTIQ individuals in PNG where homosexuality is criminalised – quote human rights council paper.
- Increases training for health workers in refugee health services in Australia regarding LGBTIQ issues
- Advocates for research and policies regarding health and wellbeing services for LGBTIQ refugees

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